

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

No. 113

NOTICE
OF
FORMAL PROCEEDINGS

IT APPEARING THAT from January 3, 1977 to the present, and at all times herein, you have been a judge of the Santa Barbara County Superior Court; and,

Preliminary Investigation having been made pursuant to the provisions of California Rule of Court 904.2, during the course of which preliminary investigation you were afforded notice of charges under investigation and a reasonable opportunity to present such matters as you chose, and as a result of said preliminary investigation, this Commission having concluded that formal proceedings to inquire into the charges against you shall be instituted pursuant to §18 of Article VI of the California Constitution and in accordance with California Rules of Court 901-922,

NOW, THEREFORE, you are hereby charged with wilful misconduct in office and conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The particulars of the charges are as follows:

1. You improperly obstructed a law enforcement investigation based upon your relationship with the individual under investigation, another Santa Barbara County Superior Court judge.

On approximately April 21, 1993, you and members of your court staff observed the judge, James Slater, deflating one of the tires of a van parked in that judge's reserved parking space at the courthouse parking lot.

According to a report of the Santa Barbara County Sheriff's Department, on May 19, 1993, a detective from the Sheriff's Department went to your courtroom to interview you and members of your staff about the incident. You told the detective that you would not give a statement and that you had told your staff that they did not have to make a statement unless subpoenaed. You explained that you were "too close."

Later that day, the detective went to interview Judge Slater. Judge Slater said that he had been contacted by you and by the county judicial research committee attorney, who wished to speak to him before he spoke to the detective. Judge Slater did speak privately to you and to the attorney before being interviewed by the detective. You and the attorney remained present during the detective's interview. You then told the detective that you were willing to be interviewed; the detective conducted the interview in the presence of Judge Slater.

In a press release you issued on June 3, 1993, you affirmed stating that you had "recommended" to your staff that they exercise their right not to speak, as you had.

In your answer to a motion to recuse filed in a criminal case on June 9, 1993, you also stated, "I did suggest that my staff should not discuss this incident with the investigator until Judge Slater had an opportunity to speak for himself." You stated, "I only asked that they delay such interviews until after Judge Slater spoke to the investigator, as I have stated above."

Your admitted actions constituted an improper obstruction of a law enforcement investigation based upon your relationship with the individual under investigation, Judge Slater. Your admitted actions were contrary to Canon 2A of the California Code of Judicial Conduct, which provides: "A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

2. You have frequently given the appearance of rudeness and prejudgment in your handling of cases before you. In your dealings with litigants and attorneys, you have conducted yourself in a manner contrary to Canon 3A(4) of the California Code of Judicial Conduct, which provides that "a judge should be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity...." This conduct is exemplified by, but not limited to, the following:

a. You were rude and abusive to plaintiff Lisa Rayburn at a settlement conference in Rayburn v. Sanderson and Rayburn v. Cottage Hospitals in February, 1992. After calling Ms. Rayburn into chambers to speak to her about the case, you interrupted her repeatedly when she attempted to answer your questions, and angrily insisted that her settlement figure was unrealistic. Ms. Rayburn was reduced to tears by your hostile and abrasive manner.

When Ms. Rayburn's attorney, Catherine Bos, attempted to intervene, asking you to listen to Ms. Rayburn without interrupting her, you began yelling at her. Ms. Bos, too, was brought to tears.

The case ultimately was settled for close to the full amount of Ms. Rayburn's demand.

b. In approximately 1990, you failed to be patient, dignified and courteous to a female pro per litigant who appeared before you. In open court, you excoriated the litigant for minor errors of form in papers she had filed and threatened her with sanctions. Your manner was harsh and abusive.

c. You failed to be patient, dignified and courteous during proceedings in Fischer v. Smith, # 187613, on approximately March 5, 1992. You brusquely interrupted

defendant's attorney Brian Flynn near the beginning of his opening statement to ask "What are we doing here?" You rudely interrupted defendant Smith's testimony to ask him how much education he had, and stated after he responded to a question, "I just don't believe you." Your conduct during the proceedings gave the appearance of prejudgment.

d. In approximately 1990, you failed to be patient, dignified and courteous to attorneys in a personal injury case in which a young man sued the railroad. At the beginning of the proceedings, you stated to plaintiff's counsel, Tod Hindin, that attorneys were always saying they were going to prove certain claims and not doing so; you were rude and abrupt, and denied counsel an opportunity to present their positions.

e. In approximately March, 1992, you asked an attorney appearing before you whether he was "whining," and said in a rude and demeaning manner, "You better be through whining! No whining is allowed in here." When the attorney asked for a few minutes to speak, you reportedly refused, and yelled, "Are you finished whining or are you going to whine some more?"

3. You made an anti-Semitic remark in chambers about attorneys who had appeared before you.

In approximately 1987, after a hearing at which two Jewish attorneys, Deputy District Attorney Darryl Perlin and Deputy Public Defender Karen Atkins, appeared before you, you

said in chambers that you "almost became anti-Semitic this morning, because there were two lawyers out there who were just whining and whining."

Some years later, you apologized to the attorneys for your anti-Semitic remark.

4. You abused your judicial authority in issuing an order to show cause and holding a hearing solely for the purpose of chastising an attorney and threatening her with referral to the State Bar.

On approximately May 17, 1988, attorney Marilyn Gilbert counsel for plaintiff in Knickrehm and Howerton v. Lompoc Unified School District, et al., # SM57207, wrote you a letter in which she asked whether you had met ex parte with opposing counsel before issuing an order on your own motion transferring the case to the north county without giving the plaintiffs an opportunity to be heard. You responded by issuing an order on May 25, 1988 which stated that the matter was ordered set for hearing "regarding the attached letter." At the hearing, you told Ms. Gilbert that she was "in a whole lot of trouble" and threatened in open court to report her to the State Bar.

5. You have abused your judicial authority in proceedings regarding sanctions. This conduct is exemplified by, but not limited to, the following incidents:

a. In approximately early 1992, you refused attorney Richard Whiston's request for a recess to answer his client's questions about a settlement being recited; instead, you continued the matter one week and invited opposing counsel to request sanctions against Mr. Whiston. You did order that sanctions be paid; the settlement was concluded and the sanctions were not paid.

b. In February, 1991, in Moreland v. Mead Reinsurance Corporation, et al., you ordered attorney Ralph Wegis to pay sanctions of \$100,000 for bringing certain claims. This order was reversed by the Court of Appeal, on the ground that you had imposed the sanctions without making a finding that Mr. Wegis acted in bad faith.

6. You have sometimes given the appearance of being inattentive during court proceedings, at times reading materials unrelated to the case before you while on the bench.

It is asserted that your conduct as charged in this and in each of the preceding counts constitutes wilful misconduct in office and conduct prejudicial to the administration of justice which brings the judicial office into disrepute within the meaning of subdivision (c) of section 18, article VI, of the California Constitution.

You have the right to file a written answer to the charges against you within fifteen (15) days after service of this notice upon you. Your answer must be filed with the Commission on Judicial Performance, 101 Howard Street, Suite 300, San Francisco, California 94105. Such answer must be verified, must conform in style to subdivision (c) of Rule of Court 15, and must consist of an original and eleven (11) legible copies.

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE.

DATED: Jan. 27, 1994

Eugene M. Delme
CHAIRPERSON

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

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| INQUIRY CONCERNING A JUDGE No. 113 |))))) | FIRST AMENDMENT TO THE NOTICE OF FORMAL PROCEEDINGS |
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TO JUDGE BRUCE W. DODDS:

COUNT TWO

f. In late 1990 or early 1991, attorneys Tristan Pico and Eileen Robinson appeared before you during a mandatory settlement conference in chambers. Mr. Pico represented the plaintiff, who had been injured in a construction accident. Ms. Robinson represented the defendant. During the settlement conference, you referred to the plaintiff as a "spic." You also referred to Ms. Robinson as "missy", "young lady", and "broad" (or a term to that effect).

After meeting together, the attorneys informed you that they had reached a structured settlement. You asked them what the total settlement amount was. When they refused to provide that information, you became extremely angry and yelled that they had no authority to settle. You required them to remain in your chambers until approximately 7:30 p.m.

g. In approximately October 1992 or thereafter, you held a hearing regarding chiropractor Kathryn Jacobson (Mega v. Yamata). After she departed but while others in the case were

still present, you told the following joke: "How many chiropractors does it take to screw in a light bulb? One, but you have to come back 17 times."

Your conduct as charged in this First Amendment to the Notice of Formal Proceedings constitutes wilful misconduct in office and conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of California Constitution, Article VI, section 18, subdivision (c).

You have the right to file a written answer to the additional charges against you within fifteen days after service of this First Amendment upon you. The answer must be filed with the Commission on Judicial Performance, 101 Howard Street, Suite 300, San Francisco, CA 94105. The answer must be verified, must conform in style to California Rules of Court, rule 15, subdivision (c), and must consist of an original and eleven legible copies.

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE.

DATED: July 26, 1994

Ina Bergman
VICE-CHAIRPERSON